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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,270	11/23/2001	Kazuo Horikawa	VX012386	2409

21369 7590 12/13/2005
POSZ LAW GROUP, PLC
12040 SOUTH LAKES DR.
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EXAMINER

JOYCE, WILLIAM C

ART UNIT PAPER NUMBER

3682

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/990,270	Applicant(s) HORIKAWA, KAZUO	
	Examiner William C. Joyce	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the RCE filed September 30, 2005 for the above identified patent application.

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on December 5, 2000. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b). Note, prior Office Actions incorrectly indicated that the Office has received the priority papers, however after further review, it was found that the priority papers have not been made of record. Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 6-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 9, last section, the limitation "the linkage idling the lock lever from the midway position to the second endpoint" is not fully understood.

Referring to Figures 1 and 3, it is understood the lock lever (9b) is connected to the control selector lever (23) through a linkage (15,18,21).

The linkage is configured such that when the lock lever is moved from end position A to a midway position the control selector lever is displaced through an angle β , and when the lock lever is moved from the midway position to end position B the control selector lever is idle. Accordingly, it appears the linkage idles (does not move) the control selector lever when the lock lever is displaced between the midway position to the end position

B. Examiner suggests the limitation be amended to correspond to the terminology found in the claim amendment filed on February 18, 2005.

b. Claim 6, last section, the limitation "the linkage further includes a mechanism engaging the output lever of the locking lever for pulling or pushing the intermediate rocking lever link between the midway point of the rocking stroke and the second endpoint of the rocking stroke of the locking lever and for idling motion of the intermediate rocking lever link between the midway point of the rocking stroke and the first end point of the rocking stroke of the locking lever" appears to be inaccurate.

Referring to independent claim 9 and Figure 1, it is understood the linkage is formed with a cam groove (20) on the intermediate rocking lever such that the intermediate rocking lever is displaced (pulled/pushed) when the locking lever is moved between the first end point A and the midway point, and the intermediate rocking lever is idle when the locking lever is moved between the midway point and the second end point B. Note the dependent claim 6 must correspond to the limitations of independent claim 9.

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c. Claim 11, the limitation "the linkage directly and indirectly links the locking lever and the control selector lever together" is not fully understood. It is unclear how a linkage can both "directly" and "indirectly" link two components.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Reference 4-97950 (JP '950).

JP '950 discloses a lock lever device for a working implement drive control system of a construction machine vehicle, the construction machine vehicle comprising a driver's seat (11) and a passageway for an operator of the vehicle arranged between the driver's seat and an exit from the construction machine vehicle, and the lock lever device comprising a locking lever (24) being located adjacent to the passageway to the driver's seat, a control selector lever (24a) switching the working implement drive control system between controllable and uncontrollable states by operating the locking lever, and a linkage that links the locking lever and the control selector lever together, the locking lever blocking operator passage through the passageway when switched to the controllable

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state and permitting operator passage through the passageway when switched to the uncontrollable state, the locking lever providing a rocking stroke for operating the locking lever along an arched path between a first endpoint and a second endpoint and through a midway position located between the first and second endpoints, the linkage placing the control selector lever in the controllable state at the first endpoint and from the first endpoint to the midway position of the arched path of the locking lever, the control selector lever is in the uncontrollable state in the midway position and from the midway position to the second endpoint of the arched path of the locking lever.

Allowable Subject Matter

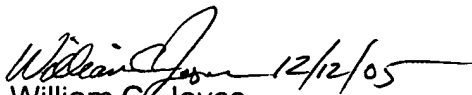
6. Claims 6-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Joyce whose telephone number is (571) 272-7107. The examiner can normally be reached on Monday - Thursday 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on (571) 272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


William C. Joyce